IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No: 7647 of 1998

Between:

The Thandava Cooperative Sugars Ltd., Rep by its Managing Director S.Ramagangi Reddy, No.C 181 , Payakaopeta ,
Tuni R.S., Visakhapatnam District-531 126.

..... PETITIONER

AND

1 Industrial Tribunal -Cum- Labour Court
Visakhapatnam.
2 Commissioner and Director of Sugars and Cane Commissioner, Government of A.P., Hyderabad.
3 The Thandava Cooperative Agriculture& Industrial Society Employees and Workers Union (Regd.No.304)
Payakaraopeta , Visakhapatnam.
4 Government of A.P., Rep by its Secretary , Labour , Employment Traning & Factories (LAB.I) Dept
Secretariat Building , Hyderabad.
5 The Thandava Cooperative Sugars Ltd., Karmika Sankshema Sang Regd No.D1373/94. Rep by its General Secretary,
P.V.Nageswara Rao . S/o.Karanam Reddy R/o.Payakaraopeta , Visakhapatnam Dist.
(R5 is impleaded as per Court order Dt: 3-9-99 in W.P.M.P 36093/98.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the award passed by the Industrial Tribunal passed in I.D.No.50/94 , dt : 6-9-1997 as Violative of Act 2/94 and accordingly st-aside the same and G.O.Rt.No.2654 Labour , Employment , Traning & Factories (Lab.I) Dept , Dt: 23-9-1997 issued by the Government of A.P. and pass such other order or orders.

Counsel for the Petitioner: MR.P.VASUDEVA REDDY

Counsel for the Respondent Nos.2 to 5: MR.S.R. ASHOK

Counsel for the Respondent No.1: GP FOR LABOUR

The Court made the following:

ORAL ORDER:-

This is the second round of litigation. Earlier, when the Labour Court answered the references made to it in favour of the union, the Management had filed a Writ Petition complaining that the Labour Court did not properly look into all the aspects and passed an erroneous award. Under those circumstances, the Writ Petition was allowed and the award of the Labour Court in I.D.No.50 of 1994, dated 27.04.1995, was set aside and the matter was remitted to the Industrial Tribunal-cum-Labour Court (for short "the Labour Court") for reconsideration. Thus, the Labour Court has reconsidered the matter in I.D.No.50 of 1994 and passed an award on 06.09.1997.

Before the Labour Court, though none was examined on behalf of the workmen, Exs.W-1 to W-14 documents were marked. So also, on behalf of Management none was examined, but Exs.M-1 to M-10 were marked.

After elaborate consideration of the entire evidence placed before the Labour Court, it passed the following award:

> "The Thandava Cooperative Agricultural Industrial Employees and Workers Union (Regd.No.3044) recognized, Payakaraopeta-531 126 Visakhapatnam is justified in demanding the management to consider all daily wage workers, NMRs and consolidated pay workers who have put in several years of service in the sugar factory as "in service candidates" for the purpose of recruitment to fill up regular vacancies permitted by the Director of Sugars and the Director of Sugars shall pass appropriate orders for filling up the existing regular vacancies within a period of one month from the date of receipt of copy of this award by the Director of Sugars and the Management shall fill up the vacancies accordingly within a period of 3 months from the date of receiving the proceedings in this regard from the Director of Sugars by following the recruitment procedure for appointment to regular posts on regular basis and exempting the "in service candidates" from written test and relaxing the age if necessary in considering their cases and giving them preference over outside candidates provided other things are equal."

Learned senior counsel Mr.S.R. Ashok appearing for the petitioner-Management strenuously contends that the respondents are only casual labour in the industry, and in fact, there are permanent employees and also seasonal (permanent) employees. The nature of industry is a seasonal one, being Sugar factory. The question of regularization of all the Members of the petitioner's Union does not arise, since there are no, such number of, vacancies available. If all the Members of the petitioner's Union are made permanent, the industry will be in doldrums and it is not practically permissible and the industry would become economically unviable. He further contended that in view of Act 2 of 1994, the question of regularization of services of the Members of the petitioner's Union cannot be done unless and until there is a sanction from the competent authority and the award passed by the Labour Court is contrary to the provisions of the said Act and in fact the Labour Court has

not taken the cognizance of the Act 2 into consideration, though such submissions were made before it.

Per contra, the learned counsel for the respondents contended that the award passed by the Labour Court is an innocuous one. What all it says is that whenever vacancies are identified, and are sought to be filled up, the in-service candidates must be given preference and they should be appointed as regular employees or their services should be regularized in their respective cadres. Further the award contemplates a permission to be granted by the Director of Sugars and only on such permission being granted by the Director of Sugars to fill up the existing vacancies, those vacancies can be filled up and not otherwise. Maybe the in-service candidates are given an exemption as to the written test and relaxation of age, if necessary, in considering their cases and giving them preference over outside candidates, provided other things are being equal. Therefore, the apprehension of the management that all the members should be absorbed at once is unfounded.

I have given my earnest consideration to the submission made by the counsel on either side and perused the material made available on record. A plain reading of the award categorically indicates that for the purpose of regularizing the services of the members of the union, the Director of Sugars shall pass appropriate orders to fill all the existing vacancies within a period of one month from the date of receipt of a copy of the award and the Management shall fill up the vacancies accordingly, within a period of three months from the date of receiving the proceedings. This itself shows that the Labour Court has already kept in mind as to the ban imposed under the Act 2 of 1994 as to regular appointment of temporary personnel. Therefore, it is categorically stated that only when the Director of Sugars permits and passes appropriate orders for filling up the existing regular vacancies, then only the vacancies shall be filled up by giving preference to the in-service candidates by exempting them from written test and also by relaxing age limit. Thus, the award of the Labour Court does not indicate that all the Members of the respondent's Union, those who are working as casual labours, are entitled for consideration for regular appointment automatically. Their cases would be considered as and when vacancies arise and as and when permission is granted by the Director of Sugars. What all it indicates is that, by and large, preference shall be given to the casual labour, those who have been in the industry for a long period, while taking up

regular recruitment in the industry as per the permission granted by the Director of Sugars. In other words the Labour Court has just considered the services rendered by the casual employees and directed the Management to consider their cases as and when regular vacancies arise for appointment on regular basis.

In view of the above, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

Accordingly, the Writ Petition is dismissed. However, it is made clear that the Director of Sugars shall take appropriate steps as per the award passed by the Labour Court, within a period of three months from the date of receipt of a copy of this order. No orders as to costs.

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20-06-2005

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To

1 The Industrial Tribunal -Cum- Labour Court
Visakhapatnam.
2 The Commissioner and Director of Sugars and Cane
Commissioner, Government of A.P., Hyderabad.
3 The Thandava Cooperative Agriculture& Industrial Society Employees and Workers Union (Regd.No.304)
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P.V.Nageswara Rao . S/o.Karanam Reddy R/o.Payakaraopeta , Visakhapatnam Dist.
6 2 CCs to the GP for Labour, High Court buildings, Hyderabad (OUT)

7 2 CD copies